

1 BEFORE THE
2 ADMINISTRATORS OF APPRENTICESHIP OF THE
3 STATE OF CALIFORNIA

4 --oOo--

COPY

5
6 FRESNO AREA PLUMBERS, PIPE AND)
7 REFRIGERATION FITTERS JATC,)

8 Charging Party,)

9 vs.)

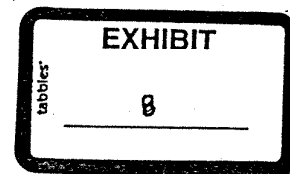
10 PHCC OF THE GREATER SACRAMENTO)
11 AREA and PHCC OF THE GREATER)
12 SACRAMENTO AREA PLUMBERS)
13 UNILATERAL APPRENTICESHIP)
14 COMMITTEE,)

15 Respondents.)
16
17
18

19 TRANSCRIPT OF PROCEEDINGS
20

21 May 17, 2000
22
23

24 REPORTED BY: SANDRA BOSTOW, CSR# 5770
25



1 Q. How long have you been employed with DAS?

2 A. Approximately 27 years.

3 Q. And is that continuous years?

4 A. Yes, it is.

5 Q. And what is your current title?

6 A. Currently I'm the deputy chief of the
7 division.

8 Q. Have you ever served as acting chief of
9 the division?

10 A. Yes, I have.

11 Q. And when was that?

12 A. Sporadically over the -- Let's see. Must
13 be about '94. I can't really offhand recall. But
14 it would be between the time that Mr. Cottrell --
15 prior to when he came on and when Mr. Jesswein
16 left. There was a span of time in there. And
17 then from the time that Mr. Cottrell left until
18 the time that the new chief marshal was appointed.

19 Q. Okay. And were you the acting chief of
20 DAS during 1997 and the first month of 1998?

21 MR. DAVIS: Objection. Leading.

22 THE HEARING OFFICER: Overruled. Go
23 ahead.

24 THE WITNESS: I'm trying to remember the
25 years when the chief -- I believe I may have been.

1 I would have to -- You know, I can't recall all of
2 the dates in between, because there was
3 considerable coming in and going out of the
4 chiefs.

5 MR. BROWN: Q. Do you recall approving a
6 PHCC program revision in January of 1998?

7 MR. DAVIS: Mr. Hearing Officer, I'd like
8 to voir dire the witness.

9 THE HEARING OFFICER: About?

10 MR. DAVIS: On her status as acting
11 chief.

12 MR. BROWN: Well, I'm continuing to
13 elicit questions about that. I'm just trying to
14 refresh her recollection.

15 THE HEARING OFFICER: Are you trying to
16 figure out dates?

17 MR. DAVIS: No, the character of the
18 office.

19 THE HEARING OFFICER: Well, that's for
20 cross rather than voir dire.

21 Go ahead. Why don't you repeat the
22 question, Mr. Brown.

23 MR. BROWN: Q. Do you recall approving a
24 PHCC expansion program in January of 1998 in your
25 capacity as assistant chief?

1 A. I recall approving an expansion, but the
2 exact date I could not tell you offhand.

3 Q. Is there a document that might refresh
4 your recollection on that date?

5 A. It would if it -- The revision that was
6 submitted forward would have or should have a date
7 on it.

8 Q. Okay. I'm going to show you a document
9 which is presently wrapped in a large batch of --
10 documents. And the first page of it is "Extract
11 of New Standards for PHCC Program."

12 For the record, I'm showing her a
13 document you indicated you would attach to your
14 statement of facts, but I don't believe it is
15 attached yet physically.

16 THE HEARING OFFICER: H-4, yeah.

17 MR. BROWN: It's the final approval.

18 MR. DAVIS: May I look at that?

19 MR. BROWN: Sure.

20 MR. DAVIS: This is just the standards?

21 MR. BROWN: Right.

22 Q. So do you recognize these standards? Why
23 don't you look through it.

24 A. Yes.

25 Q. Do you recognize your name?

1 A. Yes, that's my signature and it's dated
2 January 22 of '98.

3 Q. Does that refresh your recollection that
4 you were the assistant -- or the acting chief of
5 DAS on that date?

6 A. Yes.

7 Q. And to your recollection, were you also
8 acting chief for an extended period of time
9 immediately preceding that signature?

10 A. Immediately preceding, I believe I was.

11 Q. And when you were acting chief, did you
12 have the full responsibilities of the chief of
13 DAS?

14 A. Yes, I did.

15 Q. Can you tell me --

16 MR. DAVIS: I'll move to strike that, as
17 it calls for a legal conclusion.

18 THE HEARING OFFICER: You can cross-
19 examine about it.

20 MR. BROWN: Q. In 1997 and 1998, who was
21 it that had authority to approve revisions to
22 apprenticeship standards?

23 A. I also had the authority to approve
24 revisions.

25 Q. And that was you as the acting chief;

1 right?

2 A. (Nods head.)

3 THE HEARING OFFICER: Is that "Yes"?

4 THE WITNESS: Yes. Well, I guess I ought
5 to clarify. Prior to being designated acting
6 chief, I was also authorized by the chiefs to
7 approve revisions to standards.

8 MR. BROWN: Q. As the deputy chief?

9 A. As the deputy chief.

10 Q. So then at all times from 1996 through
11 January of 1998 you were authorized to approve
12 revisions to standards, whether in the capacity as
13 the deputy chief or the acting chief; right?

14 A. Yes.

15 Q. Can you tell me what types of actions
16 result in revisions to standards?

17 A. Could be wages, changes of area, address
18 changes, selection procedure changes. Some may
19 change work processes. They may change ratios,
20 other compensation.

21 Q. What about recruiting area?

22 A. That would be considered under the area.

23 Q. Okay. And an area, you testified, would
24 be handled as a revision to the standards; right?

25 A. Yes, um-hum.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

San Diego?

A. Not that I am aware of in law or statute.

Q. Well, I'm asking about DAS policy.

A. I don't believe we have a policy on that, unless there is one that I am not aware of.

Q. Following the issuance of the Jesswein memo in 1993, was it the practice of DAS to process proposed expansions of existing programs as revisions of the standards?

A. Prior to?

Q. No, I said following.

MR. DAVIS: Objection. Leading.

THE WITNESS: Following 1993?

THE HEARING OFFICER: Objection overruled.

MR. BROWN: Yes.

THE WITNESS: To handle them as revisions, yes.

MR. BROWN: Q. And in fact, that's the way the PHCC proposed revisions were handled was as revisions; is that right?

A. Yes, it was.

Q. Can you identify other programs who sought extensions during that period following Jesswein's memo that sought to expand their

1 programs that were processed as revisions?

2 A. I believe there was the IRCC program.
3 And there may be others, but I can't, you know,
4 tell you offhand. There's lots of programs that
5 come in.

6 THE HEARING OFFICER: And just for the
7 record: What is IRCC?

8 THE WITNESS: Independent Roofing
9 Contractors.

10 THE HEARING OFFICER: Thank you.

11 MR. BROWN: Q. Are you familiar with a
12 program called WECA, Western Electric Contractors
13 Association?

14 A. Yes.

15 Q. And didn't they have an expansion during
16 that period?

17 A. You know, I can't recall specifically.
18 They may have.

19 Q. Do you recall processing it as a revision
20 to standards?

21 A. If it came in during that time, it would
22 have been processed as a revision to a standard.

23 Q. Now, you are aware, are you not, that
24 there was a change in the CAC regulations in 1995?

25 A. Yes.

1 MR. BROWN: Q. At any time during the
2 time that you were seeking the approval of these
3 revisions to the PHCC standards did anyone tell
4 you that they had to be approved as a new program
5 with consultation?

6 A. No.

7 Q. Okay. You have been here at the hearing
8 today and you've heard some testimony regarding a
9 famous Jesswein memo, which we have marked as
10 Exhibit H-1 and introduced into evidence. And
11 this document contains references to geographic
12 area and the updating of standards when a program
13 decides to expand.

14 Were you aware of that guidance from DAS
15 Chief Jesswein when you were seeking revisions to
16 the standards?

17 A. Yes. Len Viramontes mentioned --
18 actually pulled it out in his office one time when
19 I was over there and he showed it to me, because I
20 was questioning this, whether we could do this or
21 not.

22 Q. So is it fair to say that you and PHCC
23 relied on this memo in continuing to submit
24 revisions to standards?

25 A. I did, and I believe it was also

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE
ADMINISTRATOR OF APPRENTICESHIP OF THE
STATE OF CALIFORNIA

FRESNO AREA PLUMBERS, PIPE AND)
REFRIGERATION FITTERS JATC,)

Charging Party,)

-vs-) No. 98-17

PHCC OF THE GREATER SACRAMENTO)

AREA and PHCC OF THE GREATER)

SACRAMENTO AREA PLUMBERS)

UNILATERAL APPRENTICESHIP)

COMMITTEE,)

Respondents.)

CERTIFIED
COPY

TRANSCRIPT OF PROCEEDINGS

July 19, 2000

RECEIVED
AUG 03 2000

COOK, BROWN & PRAGER
SACRAMENTO

REPORTED BY: SANDRA WALTER, CSR #7486

1 Q. Okay. I'm going to hand you a rather large
2 stack of documents that has been identified and, I
3 believe, moved into evidence as Respondent's 3. Just to
4 get some clarification, are you -- I believe you said
5 that PHCC maintains files containing correspondence and
6 documents submitted to DAS?

7 A. Yes.

8 Q. Including 24s, I believe you said?

9 A. Yes.

10 Q. And 27s?

11 A. Yes.

12 Q. Could you take a second to look through that
13 stack of documents?

14 A. All this is what was indexed.

15 Q. Yes. And you've had a chance to look at that
16 before today, correct?

17 A. Uh-huh. Yes.

18 Q. Can you tell me what those documents are?

19 A. They're 27s, DAS 24s, various correspondence to
20 and from the DAS.

21 Q. And are those documents documents that you
22 removed from PHCC's files?

23 A. Yes.

24 Q. And does that appear to be a complete set of the
25 DAS-24s and 27s and the related correspondence

1 maintained by PHCC?

2 A. Yes, it is.

3 Q. Thank you.

4 Do they appear to be correct copies of the
5 original documents that you maintain in your files?

6 A. Yes.

7 Q. Okay. Thank you. I believe you also said that
8 you deal with the documents pertaining to PHCC's LEAs?

9 A. Yes.

10 Q. And can you state for the record what LEA means?

11 A. Oh, it's Local Education Advisor.

12 Q. Okay. I'm going to show you another stack of
13 documents that I will mark as Responding Party 4.

14 THE HEARING OFFICER: Local Education Agency or
15 something like that?

16 Q. MS. DOHNT: Is it Local Education Agency?

17 A. Okay. Agency.

18 Q. I'm not an expert on that.

19 A. We always say LEA, so --

20 Q. And, again, if you could take a minute to review
21 those documents, and you've seen those documents before
22 today; is that correct?

23 A. Yes.

24 MR. DAVIS: Mr. Hearing Officer, could I have a
25 moment to review these documents?

1 record, let's go off the record for a minute.

2 (Discussion off the record.)

3 THE HEARING OFFICER: Okay. Ms. Dohnt or
4 Mr. Brown.

5 DIRECT EXAMINATION

6 Q. BY MS. DOHNT: Mr. Viramontes, could you spell
7 your name for the record?

8 A. My name is Leonard, L-e-o-n-a-r-d, last name is
9 Viramontes, V-i-r-a-m-o-n-t-e-s.

10 Q. Mr. Viramontes, for the record, I'd like to
11 thank you for appearing here today. I know that you
12 have had a major surgery done, and it's been an
13 inconvenience for you. For all the parties here, we
14 appreciate you coming in so we can get this hearing
15 wrapped up.

16 Who are you currently employed by?

17 A. State of California.

18 Q. And specifically is there a certain division you
19 work for?

20 A. I work for the Division of Apprenticeship
21 Standards. I'm a senior consultant.

22 Q. And how long have you been a senior consultant?

23 A. I've been there since 1996, August 1st, so about
24 almost three-and-a-half years.

25 Q. As a senior consultant?

1 A. Yes.
2 Q. And you work out of Sacramento?
3 A. I do now, yes.
4 Q. DAS office here in Sacramento?
5 A. Yes.
6 Q. What was your position prior to becoming a
7 senior consultant?
8 A. I started in 1972 in San Jose as a consultant.
9 Q. So you worked in San Jose before you came to
10 Sacramento?
11 A. Yes, I did.
12 Q. When did you come to Sacramento?
13 A. August in 1996.
14 Q. When you first started working in Sacramento,
15 who was your supervisor?
16 A. My supervisor in Sacramento, you mean?
17 Q. Yes.
18 A. Was Mike Mortell.
19 THE HEARING OFFICER: Let me interrupt. You
20 said you began in San Jose as a consultant to DAS?
21 THE WITNESS: Yes. I never worked for anyone
22 else except for the DAS.
23 Q. MS. DOHNT: How long was Mr. Mortell your
24 supervisor?
25 A. Until he retired. I'm not sure. I think it was

1 been changed according to CAC regulations.

2 Q. If you could look at that section of that memo,
3 is that your understanding -- take a minute to look at
4 that.

5 Mr. Viramontes, have you ever had any
6 discussions with anybody at DAS regarding section E
7 there in that memo in front of you?

8 A. No, not really.

9 Q. You're aware that at some point PHCC sought to
10 expand its area of coverage; is that correct?

11 A. Yes. I was aware of that.

12 Q. Were you involved in that process?

13 A. I sure was. I talked to them many times, and
14 they said they wanted to, and I suggested how to do it,
15 and I was the person that did it.

16 Q. And at that time, were you aware of whether DAS
17 had any policy or practice regarding how to process area
18 expansions?

19 A. No more than normal that I've been doing for a
20 number of years, the identical way that I did before.

21 Q. Okay. So how was it -- you had worked on area
22 expansions before?

23 A. Definitely.

24 Q. And how had you processed those area expansions?

25 A. The same way I did this one here.

1 Q. And how is that?

2 A. I did the whole standards, and I redid the
3 selection procedures, and I asked them -- if you notice,
4 it says the whole State of California, that they have
5 the right to recruit, but there's only certain areas
6 they do recruiting in which is by geographical areas
7 like Los Angeles, Fresno, Sacramento, maybe the Bay
8 Area, and those are the areas that they do the
9 recruiting in.

10 THE HEARING OFFICER: Why don't we go back to
11 the question. What did you do to revise the standards?

12 THE WITNESS: What did I do?

13 THE HEARING OFFICER: The question is, how did
14 you handle the desire to --

15 THE WITNESS: I changed the standards to reflect
16 that they were going to take the entire State of
17 California, and I gave geographical area for recruiting
18 purposes, where they were going to take recruiting areas
19 and where they were going to be added.

20 When you do a recruiting area, you have to mark
21 the school of educational centers. You have to have
22 down the EDD. You have to have down DAT, Division of
23 Apprenticeship, in this area. There's a number of
24 people you have to notify for recruiting purposes in
25 those areas, and so I didn't think they had to do the

1 whole state, but they can do certain geographical areas
2 and notify those people that they're going to do
3 recruiting in that particular area.

4 Q. MS. DOHNT: In your experience working with DAS
5 -- and you mentioned that you had done other area
6 expansions -- was it DAS's practice to handle area
7 expansion as a revision to an existing program or as an
8 entirely new program?

9 A. Just a revision. Usually do it on a DAS-24.
10 I've done it many a times.

11 Q. When PHCC first approached you or you first
12 started discussing their expansion, did you give them
13 any advice on how to handle their expansion, what forms
14 to fill out?

15 A. I did all the forms. They didn't have any forms
16 at all. I did all the forms, and I did it on a 24.

17 Q. And could you explain for the record what a 24
18 is?

19 A. 24 is an extract of the expansion of the program
20 which any changes are done in the program are done on 24
21 because it's an existing program that has DAS number on
22 the top of it.

23 Q. You mentioned that you processed area expansions
24 for other apprenticeship programs; is that correct?

25 A. Yes, ma'am.

1 Q. What other programs did you do area expansions
2 for?

3 A. The one right before this one, I did WECA's,
4 Western Electrical Contractors Association, and when I
5 got done with that, I did this one here right behind it.

6 Q. And have you done any others?

7 A. I done a number of them, yes. In Santa Clara
8 County, I did the Brick Layers. I merged all the
9 Northern California Brick Layers together. I did all
10 the carpet/linoleum together.

11 THE HEARING OFFICER: What was that?

12 THE WITNESS: Carpet and linoleum. I did the
13 merging of the expansion of the carpenters in Santa
14 Clara County and Northern California, so I've done a
15 number of them.

16 Q. MS. DOHNT: When you did those expansions, were
17 they done as revisions to existing programs or as new
18 program?

19 A. I've done everything on 24s before.

20 Q. So would that be as a revision or a new program?

21 A. That's a revision. The reason -- can I explain
22 a little bit on that?

23 The reason I did that for revision is because
24 they took an old number of an existing program, and they
25 added the new areas into the old program, so it did have

1 a number in existence. When you have a new -- if they
2 were going to disregard all the numbers they had on it
3 and ask for a new number from the DAS headquarters, they
4 would use a DAS-27.

5 Q. When you're saying "they," who are you referring
6 to?

7 A. They means program sponsor.

8 Q. Meaning PHCC PUAC?

9 A. That would be a program sponsor, yes.

10 Q. And what number are you referring to?

11 A. There's a file number up on top that's been
12 approved by the Division of Apprenticeship, I think,
13 18-9. Whatever the number is.

14 Q. So if I understand what you're saying, the same
15 number was used on the expansion as the existing
16 program?

17 A. Exactly. Right.

18 Q. When you were processing PHCC's expansions, was
19 there some confusion at DAS over which form to use, the
20 24 or the 27?

21 A. I didn't have any problem, but my headquarters
22 did.

23 Q. Okay. Did you have any discussions with Rita
24 Tsuda about that issue, which form to use?

25 A. I spoke to Rita on it once, and she stated to me

1 to use a 24, and that would not go out because, if you
2 use a 27, you'd have to go through the 212 process of
3 expansion and going into a new area, and a 212
4 expansions would go on a 27.

5 Now, when I spoke to Rita on it, I told her what
6 was happening, and she said, no, put it on a DAS-24, and
7 that's all that had to be done, and then it would not go
8 out as a new program, being done as an expansion of a
9 program. You don't have to worry about a 212.

10 Q. Are you aware that a form 27 was ultimately
11 signed off on PHCC?

12 A. When I finally got the thing approved -- when I
13 say approved, the standards and the addendums -- I'm not
14 sure if it was Rita or Mike Mortell or Bill Calloway --
15 I think it was either Calloway or Mike Mortell. I can't
16 remember who did. They called me and told me that the
17 program was approveable, said that they wanted it done
18 on a 27. I didn't ask them why they wanted it on a 27.
19 I was just so happy to get the thing done because it was
20 going back and forth for about six months, and I just
21 wanted to get it done. So I got a hold of George Fleck
22 and told him, I said everything is okay on it except
23 that they want it done on the 27, and he was kind of
24 upset because he stated to me that they thought that
25 that was done because of a new program. I said no. I

1 was told by Rita that you don't have to do a 12 on this
2 one because all it is is they're just going to expand
3 the program, and that's all I know.

4 THE HEARING OFFICER: I have to go back. You
5 said it was either Mortell or --

6 THE WITNESS: Bill Calloway -- Bill Calloway is
7 our program -- he approved the programs out of our
8 office in San Francisco, and he was the one that made
9 one of the -- he checked them out for, you know, to make
10 sure they're all okay and so forth.

11 Q. MS. DOHNT: So did you have discussions with
12 Rita Tsuda as to whether or not PHCC's expansion would
13 have to go through -- are you referring to the 212 new
14 approval process?

15 A. Yes.

16 Q. You had discussions with her on that issue?

17 A. I had a discussion with her on that. She said
18 no.

19 Q. She said no what?

20 A. Would not have to go through.

21 Q. Why was that?

22 A. It was an expansion of the program. It was not
23 a new program.

24 Q. As part of your job duties as senior consultant,
25 do you investigate inquiries or complaints against